

February 8, 2007

Re: Support of HB14

Mr. Chairman, members of the committee:

My name is John C. McKeon. For the past 13 years, I have been the District Judge for the 17th Judicial District. This district covers Phillips, Blaine and Valley counties located in North-central Montana. Prior to that time, I practiced law at Malta and Havre for approximately 20 years. I have served various offices with the Montana Judges Association and currently, I am a member of the District Court Council

I come here today to encourage your support for the courtroom technology proposals within HB14. Those proposals include funding for interactive video. Interactive video services are now available in 32 Montana courthouses.

All three courthouses within the 17th Judicial District have those services. The use of such services is becoming more and more popular. On one particular day last month, I conducted all matters by interactive video. Further, it is not just connecting two locations. I have connected with as many as four sites. Just last Monday, I conducted a proceeding involving simultaneous appearances from Glasgow, Great Falls and Havre.

These video services have been used to conduct proceedings in:

- Youth detention hearings;
- Initial appearances;
- Arraignments;
- Omnibus hearings;
- Change of plea hearings;
- Revocation hearings;
- Contempt hearings;
- Discovery hearings;
- Per stipulation, hearings on summary judgment motions; and.
- Uncontested fitness to proceed and mental commitment hearings.

In addition, I have used the services to attend DCC and other administrative meetings and to conference with the Supreme Court. Youth probation uses the video services, particularly when weather and road conditions make it hazardous for travel. Montana Legal Services has offered general assistance courses by interactive video. Attorneys have conducted depositions. Recently, a county commissioner requested interactive video time for monthly Action from Eastern Montana meetings.

Interactive video saves time, travel, energy and expense.

For law enforcement alone, there can be considerable savings. Hearing for probable cause to detain a youth must generally be conducted within 24 hours of detention. The only secure youth detention center along the Hi-Line from North Dakota to Kalispell is

located in the Blaine County courthouse. This facility is 30 miles from Havre, 70 miles from Malta, 120 miles from Shelby, 140 miles from Glasgow and 190 miles from Wolf Point. Officers need not always transport. The detention center regularly uses interactive video. Earlier this week, Cascade County used those services to conduct a detention proceeding involving two runaways from a local youth ranch.

Adult offenders or respondents can also be kept in facilities located a considerable distance from the pending proceeding. Both district and justice courts in the 17th Judicial District preside over matters where the defendant appears from the Adult Detention Center at Havre. Over the past year, I have presided in matters involving appearances of inmates at the Crossroads Correctional Center in Shelby and at the State Prison in Deer Lodge. Respondents in fitness to proceed hearings have appeared from the State Hospital at Warm Springs and the Montana Developmental Center in Boulder. When you consider that a round trip to Warm Springs from our part of the State involves at least ten hours, that video appearance can represent a considerable savings.

The request for video appearance comes frequently from counsel of record. Conflicts of interest and the limited number of resident attorneys practicing criminal law can mean assigned public defenders are located many miles from the court. Public defenders regularly assigned to matters in Glasgow can come from Havre, a distance of 160 away. Public defenders in Malta must come from out of town as the only resident attorneys are prosecutors. For their convenience, defense attorneys regularly ask to appear by video.

The availability of interactive video services has provided greater access to professional services. Attorneys and other professionals located elsewhere are more willing to become involved in a court matter knowing that there is a possibility some of their appearances may be by interactive video. I recall matters with attorneys appearing by interactive video from Kalispell, Missoula, Great Falls, Wolf Point, Sidney, Havre, Lewistown and Billings.

Of course, interactive video has its limitations. The judge and other court participants cannot as easily observe the demeanor of one appearing by video. Although the court can control the camera, the line of sight is generally tunnel-type vision. Timely objections are made more difficult with any slight transmittal delay. A judge must put more reliance on auditory methods for controlling the proceeding. The courts must, and in my experience, they do, assure the interests of justice are served when using interactive video.

In my district, requests for interactive video are made in advance. Some requests must be denied as there is simply no suitable substitute for live appearance. Staff are trained to maintain quality connection. Participants are instructed in procedure and the use of the equipment. Waiver of any right to object is placed on the record. Parties are given the opportunity for private consultation with their attorney(s).

However, interactive video has eased the travel and scheduling demands of a multi-county district such as the 17th Judicial District. Given the vast areas of Montana, those

demands can represent quite a burden. When I first sat on the bench, I would travel 3 or 4 hours just to attend a hearing that lasted less than ½ hour.

Used properly, interactive video can be a tool for more efficient and effective administration of justice. The State Judiciary Branch needs your support for continued use of interactive video.

HB 14 also seeks funding for other court needs. As you likely know, district courts are courts of record and a true and accurate record must be available for review. Nothing is more frustrating to district courts than the Supreme Court's remand of a matter because of improper recordkeeping. The courts must have proper recording and reporting equipment. Support this part of HB14 as well.

Justice also demands that litigation be conducted in a forum where matters are properly heard. No operating sound system exists in the courtrooms of the 17th Judicial District. Such is the case in many of the other courtrooms where I have presided.

Proceedings have been interrupted on numerous occasions to repeat a question and/or an answer. Just last month, I had a party request a sound system in the Glasgow courtroom. Malta has a marvelous courtroom but it has changed little since construction in 1915. A Malta reporter asked years ago for improved courtroom acoustics. A good sound system could remedy many of the problems.

Fund this part of HB 14 as well. Do not leave us guessing whether jurors have heard critical testimony or whether the defendant hears the ruling from the bench.

It is time to bring modern technology to the courtroom.

Thank you. If I can be of any further assistance, please feel free to contact me at my residential chambers.